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9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA
 11 WESTERN DIVISION
 12

13
 14 **KATIE A., et al.,**

15 Plaintiffs,

16 v.

17 **TOBY DOUGLAS**, Director of the
 18 California Department of Health Care
 Services; et al.,

19 Defendants.
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Case No. 2:02-cv-05662 JAK (SHx)

**PLAINTIFFS', STATE
 DEFENDANTS', AND SPECIAL
 MASTER'S STATEMENT OF
 AGREEMENT ON SELECTED
 RECOMMENDATIONS**

Date: August 28, 2014

Time: 11:00 a.m.

Crtrm: 750

Judge: Honorable John A. Kronstadt

21 Plaintiffs, Katie A. et al, and State Defendants, Toby Douglas, Director of the
 22 California Department of Health Care Services (DHCS), and Will Lightbourne,
 23 Director of the California Department of Social Services (CDSS), and Special
 24 Master Richard Saletta hereby file this statement of agreement on
 25 Recommendations 1 through 11 to compliment current implementation efforts.
 26 Based on this agreement, the Parties and the Special Master agree that the status
 27 conference set for August 28, 2014, is unnecessary.

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1 **Recommendation 1: Increase Services to Subclass Members in Selected**
2 **Under-Performing Counties.**

3 The Special Master stated that his intent in submitting Recommendation 1 is to
4 attain "measurable, significant, and rapid increases in Intensive Care Coordination
5 (ICC) and Intensive Home Based Services (IHBS) to subclass members in these
6 under-performing counties." The State agencies are committed to accomplishing
7 that goal through implementation of the Service Delivery Action Plan (ECF No.
8 899, Exhibit 1.4 to the Special Master's June 2014 Progress Report). To that end,
9 DHCS and CDSS are taking action to address measurable and timely increase in the
10 availability and utilization of ICC and IHBS to subclass members in lower-
11 performing counties, consistent with the Service Delivery Action Plan. The State
12 has informed the Plaintiffs and Special Master of the actions the State is taking to
13 achieve measurable and timely increases in ICC and IHBS to subclass members in
14 lower-performing counties. The actions include the following:

15 • Sending a letter to the Counties, between September 15, 2014, and October
16 15, 2014, in an All County Letter and Mental Health and Substance Use Disorder
17 Services (MHSUDS) Information Notice regarding the State's expectations of the
18 child welfare and mental health agencies and to remind them of their pre-existing
19 legal obligations and to inform them that the State will be taking actions to monitor
20 the implementation and provision of ICC and IHBS services. A draft of such letter
21 shall be shared with Plaintiffs' counsel prior to August 31, 2014.

22 • Identifying activities that the State has taken and will undertake to address
23 utilization of ICC and IHBS in the 12 counties with the largest child welfare
24 caseload, as well as in the counties not yet providing services (regardless of their
25 size). CDSS and DHCS expect to have its initial round of work completed with
26 eight counties by September 15, 2014. The remaining 16 counties will be
27 completed by October 31, 2014. Such activities-, which are reflected in the State's
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1 internal working document entitled "County Implementation Status Tool", will
2 address all of the following elements:

3 A: County name (lower-performing and/or large county the State is
4 evaluating/monitoring through its Action plan)

5 B: The specific issue or barrier that the State or county has identified that
6 either prevents the county from sufficiently (1) identifying (screen/refer/assess)
7 subclass members or (2) delivering ICC and IHBS to the current subclass members;

8 C: The State's explanation of the problem identified in B (above) using a more
9 specific description (for example, the county mental health plan -doesn't have
10 existing capacity to evaluate the potential subclass members referred by the child
11 welfare agency, or the mental health plan does not have the capacity to provide ICC
12 and IHBS to current subclass members);

13 D: The counties' explanation of how they intend to address the problem
14 identified in B and C above;

15 E: The State's assessment of how effective the actions the county is taking (or
16 will take) will be on the problem identified in B and C above, including whether
17 such actions are sufficient to have a direct, measurable and timely increase on either
18 identification and /or service delivery of ICC and IHBS to the subclass; and

19 F: The specific actions the State will take to address the problem identified in
20 B and C above, which will include general timelines for action and a description of
21 the measurable outcomes of such actions with regard to identification of subclass
22 members and/or service delivery of ICC and IHBS.

23 • Completed discussions, by August 15, 2014, with Plaintiffs and the Special
24 Master regarding specific action items identified by the parties that may need, or
25 benefit from, further development or greater specificity in order to achieve the goal
26 of increased availability and use of services in lower-performing counties.

27 • DHCS and CDSS will provide updates to the Plaintiffs and Special Master
28 on their progress on completing this work.

1 **Recommendation 2: TFC Implementation.**

2 DHCS and CDSS will begin implementation of TFC by August 1, 2014,
3 subject to the approval of TFC by the Centers for Medicare and Medicaid Services
4 as a Medi-Cal covered service, as indicated in the TFC Work Plan. ECF No. 899-3,
5 Ex. 1.5. If federal approval has not been granted by August 1, 2014, DHCS will
6 begin implementation as soon as possible, once such federal approval is granted.
7 DHCS and CDSS will update the Plaintiffs and Special Master monthly, or more
8 frequently when significant developments occur. DSS and DHCS shall have
9 formally responded in writing to the June 25, 2014 Centers for Medicare and
10 Medicaid Services' request for additional information as soon as possible, but no
11 later than September 23, 2014, absent extenuating circumstances.

12 **Recommendations 3 and 4: A Shared Management Structure and**
13 **Accountability, Communication, and Oversight System; Statewide**
14 **Coordinated System Improvement Plan/Performance Improvement Plan**
15 **(SIP/PIP).**

16 The Joint Management Taskforce (JMT) issued its recommendations
17 regarding (1) Shared Management Structure; (2) Accountability, Communications
18 and Oversight; and (3) Core Practice Model fiscal strategies, on July 29, 2014.

19 The recommendations included in the report address the formal requirements
20 for establishing a Shared Management Structure that are the subject of the Special
21 Master's Recommendation 3. Additionally, the recommendations provide a
22 comprehensive Accountability, Communications and Oversight framework that,
23 among other things, calls for an evaluation of the viability of implementing a
24 formally coordinated SIP/PIP effort, and encourages institutionalizing quality
25 assurance processes relating to practice improvement, Core Practice Model
26 implementation, and timely access to ICC and IHBS. These accountability and
27 oversight recommendations are the subject of the Special Master's original
28 Recommendation 4.

1 By no later than October 27, 2014, DHCS and CDSS will provide to the
2 Plaintiffs and Special Master their formal written response to these
3 recommendations, by accepting, declining to accept, or accepting with stated
4 amendments, each recommendation. The parties expect that by thus completing the
5 JMT process, the State will achieve the intents and purposes of the Special Master's
6 original Recommendations three and four.

7 **Recommendation 5: County and State Confidentiality Barriers.**

8 The number of counties currently reporting confidentially as a barrier to
9 sharing information between child welfare and mental health agencies has
10 decreased to only six counties. In addition, the State has again made publicly
11 available the Katie A. service utilization reports which also include most of the
12 county-level data. DHCS and CDSS agree to provide the Plaintiffs and Special
13 Master, on or before November 1, 2014, a solution to information sharing that
14 allows publication of county-level Katie A. mental health data and any solution to
15 the county reported confidentially barriers.

16 **Recommendation 6: Proposition 30 and Early Periodic Screening,**
17 **Diagnosis, and Treatment (EPSDT) Updates.**

18 CDSS, DHCS, and State leadership have been, and will continue to be,
19 actively engaged in dialogue with California Mental Health Directors' Association
20 (CMHDA) and other county representatives and stakeholders on a wide variety of
21 state/county funding issues, including those related to Proposition 30, both within
22 and beyond the EPSDT context. These types of funding discussions are a standard
23 feature of constructing annual State and county budgets, and the arguments made
24 and positions taken as part of this negotiation process should be read and
25 understood in this broad context. In regard to the narrower purpose of
26 implementing the Settlement Agreement, DHCS has received two separate
27 unequivocal written commitments from CMHDA, confirming that the counties will
28 continue with implementation of ICC and IHBS, notwithstanding any ongoing

1 dialogue that the counties may have with the State about funding. Further, to the
2 extent that counties may continue to raise funding concerns, the State will seek
3 more specificity from such counties on the nature of their funding concerns, which
4 may include the amount of funding needed, the services requiring additional
5 funding, and the population(s) needing to be served. Thus, with the foregoing in
6 mind, DHCS and CDSS will provide updates to the Special Master and Plaintiffs on
7 any significant developments when they occur, in addition to a general update on
8 this issue, by no later than September 15, 2014.

9 **Recommendation 7: Affordable Care Act – California’s Implementation**
10 **Update.**

11 Effective January 1, 2014, new Medi-Cal mental health services are available
12 through Medi-Cal Managed Care Plans and through the Medi-Cal fee-for-service
13 system. One of DHCS' goals for successful implementation of these services is that
14 beneficiaries (children and adults) receive medically necessary mental health
15 services based on their diagnoses and level of impairment. DHCS continues to
16 monitor the implementation of the new mental health benefits and the coordination
17 of Managed Care Plans and Mental Health Plans.

18 DHCS will update the Plaintiffs and Special Master by August 1, 2014, on the
19 steps the State is taking to ensure that Medi-Cal beneficiaries (which includes the
20 class members) receive timely, medically necessary mental health services
21 including the process in place for delineating responsibilities of both the Managed
22 Care Plans and the Mental Health Plans.

23 DHCS provided to the Special Master an update on the activities DHCS has
24 and is taking to ensure beneficiaries (class and subclass members) are screened for
25 and provided medically necessary mental health services. This included sharing
26 with the Special Master several letters sent from DHCS to Managed Care Plans and
27 Mental Health Plans (MHPs) as well as providing information on specific work
28 group efforts between DHCS, MHPs, and stakeholders related to implementation of

1 the mental health services expansion through Medi-Cal Managed Care. The Special
2 Master was encouraged with the content of the letters and information provided,
3 and requested that DHCS engage with and include the California Welfare Directors'
4 Association (CWDA) and California Alliance of Child & Family Services
5 (CACFS) in activities and discussions on the mental health managed care
6 expansion, especially when the topic relates to the foster care population. DHCS
7 agreed and is engaging CWDA and CACFS).

8 **Recommendation 8: Updating the Special Master and Plaintiffs.**

9 State DHCS and DSS will update the Special Master and Plaintiffs, beginning
10 August 1, 2014, on all actions ordered by the Court during or following the July 31,
11 2014 Katie A. Status Conference.

12 **Recommendation 9: The Special Master's Fiscal Year 2014-2015 Budget.**

13 State DHCS and DSS will approve the Special Master's Fiscal Year 2014-
14 2015 budget, as provided in Exhibit 9 to the Special Master's Report. The budget is
15 for six months, pending the Court's jurisdiction ending in December 2014.

16 **Recommendation 10: November, 2014 Katie A. Status Conference.**

17 The parties agree and request that the Court schedule a Katie A. Status 8
18 Conference with a proposed date of October 10, 2014, with the following
19 consultation and submission deadlines:

- 20 1. Special Master's completed draft report with any proposed
21 Recommendations (not filed) provided to the parties by no later than September 15,
22 2014;
- 23 2. Special Master's Final report filed with the Court by no later than September
24 26, 2014; to allow sufficient time for the parties and Special Master to jointly
25 discuss and, if necessary, propose revisions to any Recommendations;
- 26 3. Parties to file their responses to the Special Master's September 26, 2014
27 report, by no later than October 3, 2014; and
- 28 4. Status conference on October 10; 2014.

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Recommendation 11: Subclass Entitled to ICC and IHBS.

DHCS and DSS will notify the Counties in the All County Letter and Mental Health and Substance Use Disorder Services (MHSUDS) Information Notice to be prepared pursuant to the parties' previous agreement, that after Court jurisdiction ends in December 2014, the State expects the Counties to continue with implementation activities and practices on an ongoing basis so that subclass members will receive Specialty Mental Health Services including ICC and IHBS, as medically necessary. This letter is the expectations letter described in Recommendation 1.

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Dated: August 15, 2014

Respectfully submitted,
KIMBERLY LEWIS
NATIONAL HEALTH LAW PROGRAM

/s/ Kimberly Lewis
Attorneys for Plaintiffs

Dated: August 15, 2014

/s/ Richard Saletta
Special Master

Dated: August 15, 2014

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CERTIFICATE OF SERVICE

Case Name: KATIE A., et al. v. BONTA, et al. No. 2:02-cv-05662 JAK (SHx)

I hereby certify that on August 15, 2014, I electronically filed the following document with the Clerk of the Court by using the CM/ECF system:

PLAINTIFFS', STATE DEFENDANTS', AND SPECIAL MASTER'S STATEMENT OF AGREEMENT ON SELECTED RECOMMENDATIONS

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. On June 16, 2014, I have mailed the foregoing document by First-Class U.S. mail, postage prepaid, for delivery within three (3) calendar days to the following non-CM/ECF participants:

John F. Toole, Esq.
National Center for Youth Law
405 14th Street, 15th Floor
Oakland, CA 94612-2701

Kathleen R. Wolfe
Travis W. England
U.S. Department of Justice
950 Pennsylvania Ave NWN
Washington, DC 20530

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

This declaration was executed on August 15, 2014, at Los Angeles, California.

Veronica Sawers

Declarant

/s/ Veronica Sawers

Signature